

STATE OF MAINE

v.

HORACE W. SALLEY III

Submitted on Briefs November 23, 2009
Decided December 1, 2009

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and JABAR, JJ.

MEMORANDUM OF DECISION

Horace W. Salley III appeals from judgments of conviction entered in the Superior Court (Aroostook County, *Hunter, J.*) upon jury verdicts finding him guilty of gross sexual assault (Class A), 17-A M.R.S. § 253(1)(A) (2008), and tampering with a victim (Class B), 17-A M.R.S. § 454(1-B)(A)(1) (2008).¹ Contrary to Salley's contentions, (1) the statements that Salley's sister made to the victim were not hearsay, *see* M.R. Evid. 801(d)(2); (2) the court did not err or abuse its discretion in admitting recordings of certain telephone calls between Salley and his sister, *see* M.R. Evid. 106, 403; *State v. Johnson*, 479 A.2d 1284, 1290 (Me. 1984); (3) the court did not abuse its discretion in denying Salley's motion for a mistrial, *see State v. Rollins*, 2008 ME 189, ¶ 9, 961 A.2d 546, 549; *State v. Landry*, 600 A.2d 101, 102 (Me. 1991); and (4) viewing the evidence in the light most favorable to the State, the fact-finder could rationally have found each essential element of each crime beyond a reasonable doubt, *see State v. Bruzzese*, 2009 ME 61, ¶ 10, 974 A.2d 311, 313.

The entry is:

Judgment affirmed.

¹ Salley was also convicted of assault (Class D), 17-A M.R.S. § 207(1)(A) (2008), but he does not challenge that conviction on appeal.

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Aroostook County Superior Court (Houlton) docket number CR-2006-200
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